



Attorney General

1275 WEST WASHINGTON

Phoenix, Arizona 85007

Robert R. Corbin

# LAW LIBRARY

## ARIZONA ATTORNEY GENERAL

February 8, 1985

Walter C. Madsen, Superintendent  
State Banking Department  
1601 West Jefferson  
Phoenix, Arizona 85007

S. David Childers, Director  
State Department of Insurance  
1601 West Jefferson  
Phoenix, Arizona 85007

Re: I85-021 (R85-010)

Dear Messrs. Madsen and Childers:

You have asked if serving as members of the governing committee for the Tax Deferred Annuity and Deferred Compensation Program, under Title 38, Chapter 5, Article 5,<sup>1</sup>/<sub>1</sub> Arizona Revised Statutes, and as regulators of companies which may be recipients of deferred compensation funds constitutes a conflict of interest.

A conflict of interest arises when a "public officer . . . of a public agency . . . has a substantial interest in any contract, sale, purchase or service to such

---

<sup>1</sup>/<sub>1</sub>/A.R.S. § 38-871 provides that the Tax Deferred Annuity and Deferred Compensation Governing Committee (committee) shall consist of these seven members:

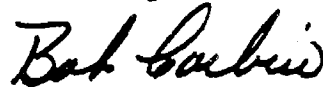
1. Three employees of the state appointed by the governor.

Walter C. Madsen, Superintendent  
S. David Childers, Director  
February 8, 1985  
Page 2

public agency . . .," or when the "public officer . . . has . . . a substantial interest in any decision of a public agency." A.R.S. § 38-503(A) and (B). A substantial interest is defined as "any pecuniary or proprietary interest, either direct or indirect, other than a remote interest." A.R.S. § 38-502(11). Unless you have some pecuniary or proprietary interest in the companies receiving deferred compensation funds, you have no conflict of interest.

Although you may be interested in the companies in your official capacities, that interest does not give rise to a conflict of interest under A.R.S. § 38-501, et seq. Indeed, in specifying the qualifications of the members of the committee, the legislature obviously intended that the Superintendent of the State Banking Department serve on the committee, and it further did not preclude the Director of the State Department of Insurance from likewise serving as a member of the committee. We, therefore, conclude that you may serve on the governing committee of the Tax Deferred Annuity and Deferred Compensation Program.

Sincerely,



BOB CORBIN  
Attorney General

BC/dg

---

1/ (Cont'd)

2. An employee of the department of administration knowledgeable in the area of personnel administration appointed by the director of the department of administration.
3. The superintendent of the state banking department.
4. An employee of the department of administration knowledgeable in the area of finance appointed by the director of the department of administration.
5. The attorney general.